IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 393 OF 2002

The Commissioner of Income Tax,
Mumbai City-I, Mumbai. .. Appellant
v/s.

M/s.Allana Cold Storage Ltd. .. Respondent

Ms.S.V.Bharucha i/by Mr.H.D.Rathod for appellant.

Mr.S.S.Shetty for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 18th August, 2004

P.C.

In the appeal, according to the revenue, the following two substantial questions of law arise:-

"(a) Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT is correct in allowing the claim of the assessee of Rs.19,45,780/- in respect of the claim of the assessee u/s.32AB of the Income Tax Act?

(b) Whether on the facts and in the circumstances of the case and in law the Hon'ble ITAT is correct in holding that the sales tax and excise duty does not form part of the total turn over and accordingly allowed the deductions u/s.80 HHC of the Income Tax Act?

2. In so far as the proposed question (a) is

concerned, the learned counsel for the revenue fairly conceded that by the Division Bench judgment of this court in Commissioner of Income-Tax v. Amplification Bearings Corporation Ltd., 246 ITR 295, the controversy stands concluded.

3. As regards the proposed question (b), in our view, the controversy raised therein stands concluded by the Division Bench judgment of this court in Commissioner of Income-Tax v. Sudarshan Chemicals Industries Ltd., 245 ITR 769.

4. No substantial question of law arises. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)